

Board Office Use: Legislative File Info.	
File ID Number	17-1317
Introduction Date	6/14/17
Enactment Number	17-0764
Enactment Date	6/14/17



OAKLAND UNIFIED  
SCHOOL DISTRICT

Community Schools. Thriving Students.

# Memo

<b>To</b>	Board of Education
<b>From</b>	Marion McWilliams, General Counsel
<b>Board Meeting Date</b>	June 14, 2017
<b>Subject</b>	<b>Approval of Employment Agreement for Superintendent Kyla Johnson-Trammell</b>
<b>Action Requested</b>	<b>Approval by the Board of Education of Employment Agreement Kyla Johnson-Trammell, Superintendent, for the term July 1, 2017 to June 30, 2021, at the total base salary of \$280,000 per year plus fringe benefits costs of \$20,116.13.</b>
<b>Background and Discussion</b>	<p>Kyla Johnson-Trammell, as Superintendent, will report to the Board. The Superintendent is the chief executive officer and educational leader of the District and is responsible for carrying out the educational, managerial and administrative responsibilities for the care and maintenance of the District. The Superintendent shall administer the District in accordance with the Board's policies and State and federal laws as they exist or may hereafter be enacted or amended. The Superintendent shall perform those duties, which are required by state law, prescribed by the Board or as necessary for the efficient and effective management of the District.</p> <p>State law (SB-1436) requires the Board to report a summary of the salaries or compensation paid in the form of fringe benefits of a local agency executive. Kyla Johnson-Trammell will receive fringe benefits of health, vision, dental insurance, long term disability insurance, life insurance, membership in professional associations, and education, travel and cell phone stipends.</p>
<b>Recommendation</b>	Approval by the Board of Education of Employment Agreement Kyla Johnson-Trammell, Superintendent, for the term July 1, 2017 to June 30, 2021, at the total base salary of \$280,000 per year plus fringe benefits costs of \$20,116.13.
<b>Fiscal Impact</b>	Funding resource name: GP – base salary of \$280,000 per year plus fringe benefits costs of \$20,116.13
<b>Attachment</b>	<ul style="list-style-type: none"> <li>Employment Agreement</li> </ul>

**OAKLAND UNIFIED SCHOOL DISTRICT  
EMPLOYMENT AGREEMENT  
FOR SERVICES OF KYLA JOHNSON-TRAMMELL DISTRICT SUPERINTENDENT**

This Employment Agreement ("Agreement") is intended to set forth the terms and conditions of the employment of Kyla Johnson-Trammell (the "Superintendent") as the Superintendent of the Oakland Unified School District (the "District").

1. **TERM.** The term of this Agreement is for four years, beginning on July 1, 2017 and ending on June 30, 2021.
2. **RENEWAL.** Provided the Board of Education of the Oakland Unified School District (the "Board") and the Superintendent mutually agree and Superintendent has met performance goals, the Board may annually take official action at a noticed, public meeting to extend this Agreement for an additional year.
3. **DUTIES AND RESPONSIBILITIES.**
  - 3.1. The Superintendent is the chief executive officer and educational leader of the District and is responsible for carrying out the educational, managerial and administrative responsibilities for the care and maintenance of the District. The Superintendent shall administer the District in accordance with the Board's policies and State and federal laws as they exist or may hereafter be enacted or amended. The Superintendent shall perform those duties, which are required by state law, prescribed by the Board or as necessary for the efficient and effective management of the District. Specifically, the duties of the Superintendent shall include:
    - a. reporting directly to the Board; the Superintendent is directly responsible to the Governing Board of the Oakland Unified School District. The Superintendent facilitates communication and information among the administrators, the Board, staff, parents and community, and sets a positive tone for the District;
    - b. directing the day-to-day administration of the District; the Superintendent has the authority to direct and supervise the activities of all District employees, programs, and functions to ensure the effective administration of the total school program;
    - c. planning, implementing and evaluating programs regarding the organizational, operational, fiscal and educational functions of the District;
    - d. performing the duties of a Superintendent as set forth in Education Code section 35035 and Education Code section 35250;
    - e. instituting reforms and systemic changes, such as curriculum and program offerings, as the Superintendent finds necessary and expedient

in order to affect positive change in the District;

- f. developing and implementing a program of professional development that the Superintendent finds necessary and expedient in order to affect positive changes in the District;
- g. soliciting parental/guardian involvement in the development and implementation of the District's policies, as appropriate;
- h. recommending policies to the Board and reasonably interpreting and implementing policies adopted by the Board;
- i. organizing departments and assigning employees of the District;
- j. developing and implementing administrative regulations that the Superintendent deems necessary for the efficient and effective operation of the school system and that are consistent with the Board's policies, and state and federal law;
- k. selecting qualified candidates for District employment, unless the position is one which reports wholly or jointly to the Board;
- l. directing, assigning, transferring, evaluating and dismissing all the employees of the District consistent with the Board's policies, and state and federal law; the Superintendent shall not create new positions outside of those that are vacant and approved within the adopted budget without Board approval;
- m. accepting all resignations of employees of the District, unless the position is one which reports wholly or jointly to the Board;
- n. assuming responsibility for the overall financial planning of the District, including preparation of the annual budget and the submission of the budget to the Board for review and approval;
- o. attending and participating in all discussions in all regular, special and executive sessions of the Board. From time to time, the Superintendent may appoint an appropriate administrator to attend such meetings in lieu of the Superintendent with the Board's or Board's designee consent;
- p. making recommendations on items of business for Board meetings as the Superintendent deems necessary for the efficient and effective operation of the District;
- q. establishing and implementing a process, including a means and time parameters for keeping the Board up-to-date on developments, initiatives and issues in District;
- r. seeking Board input prior to engaging in work that is not detailed in the

Board or Superintendent work plan, and advising the Board of sources of funds that may be available to implement such programs for initiatives;

- s. and seeking Board input on a desirable organizational structure for leadership positions within central office;
- 3.2. This is an Agreement for the performance of professional services involving a relationship of confidence and is not assignable by either party.
- 3.3. The Superintendent acknowledges and agrees, as provided in Board Bylaw 9124, that the District's General Counsel is appointed jointly by the Board and Superintendent and is a dual report to the Board and the Superintendent.

**4. BOARD/SUPERINTENDENT COMMUNICATIONS.**

- 4.1. The Board and the Superintendent agree that they shall work with each other in the spirit of cooperation and teamwork and shall provide each other periodic opportunities to discuss Board/Superintendent relationships and communications. On or before August 15, 2017, and periodically thereafter, the Board and Superintendent shall meet to discuss how they will work communicate and work cooperatively together.
- 4.2. As provided in Board Bylaw 9200 and the Oakland City Charter, no board member may interfere with the performance by the Superintendent of the District of those duties vested in or delegated to the Superintendent of the District by statute or by act of the Board of Education. Such interference specifically includes any attempt by a board member to order, coerce or influence, publicly or privately, any subordinate, official or employee of the District as to any matter within the authority of the Superintendent under statute or as conferred by the Board of Education through its policies, procedures, resolutions, or minutes of meetings. The Board agrees they shall refer all personnel complaints or other communications concerning the day to day administration of the District to the Superintendent for investigation and report to the Board. Individual members of the Board, by virtue of holding office, shall not exercise any administrative responsibility with respect to the schools or command the services of any school employee, except his or her staff. The Superintendent of Schools is neither obligated nor expected to follow the directions or instructions of individual board members, officers, and committees unless the Board has specifically delegated such exercise of authority. Individual Board members shall submit a request for information to the Superintendent of Schools. The Superintendent shall share with the Board criticisms, complaints and suggestions concerning the District that may come to her attention.
- 4.3. The Board shall provide the Superintendent with periodic opportunities to discuss the Board-Superintendent relationships as they relate to the Board's productivity and the effectiveness of the Superintendent's leadership. As a part of this process, when it is deemed necessary by either the Board or the Superintendent, the District may retain an outside advisor to facilitate this process.

- 4.4. The Board shall hold the Superintendent accountable to manage the District consistent with the approved policies which establish what it expects the schools to accomplish. It is through Board policy and official Board action that the Board gives direction to the Superintendent.

5. **SALARY AND BENEFITS.**

- 5.1. The annual base salary of the Superintendent shall be \$280,000, payable in twelve (12) equal monthly installments. During the term of this Agreement, the Superintendent shall be entitled to salary increases provided to all other District confidential administrators. In addition, the Superintendent shall be eligible for cell phone and educational level stipends provided to confidential administrators.
- 5.2. Provided that this contract is in effect and has not been terminated by either party, on June 30, 2021 and on June 30, 2022, the District shall contribute annually an amount equal to 10% of the Superintendent's annual base salary excluding stipends (as of the date of each of the contributions) to a Supplemental Retirement Plan ("SRP").

The SRP shall be a plan established under Section 403(b) of the Internal Revenue Code of 1986, as amended. The 403(b) plan shall be established as employer-paid with non-discretionary contributions by the District and the Superintendent shall have no right to receive such contributions in cash. The 403(b) plan shall be established under a written plan document that meets the requirements of the Code and such document is incorporated herein by reference. The funds for the 403(b) plan shall each be invested as determined solely by the Superintendent in such investment vehicles as are allowable under the Code and California law for the applicable type of plan. The contributions to the SRP and all earnings thereon shall at all times be vested with the Superintendent.

- 5.3. The Superintendent and her eligible dependents shall be entitled to paid coverage under the District's health, vision, dental, long-term disability, and life insurance plans to the same extent as other confidential administrators as determined by the Health Benefits Governance Board, including without limitation, contributions towards premiums and all co-pay costs required by health care providers.
- 5.4. In addition to the benefits provided in this Agreement, the District will provide the Superintendent the same benefits provided to confidential administrators.
- 5.5. The District, at its cost, shall provide the Superintendent with term life insurance in the amount of \$1 million dollars. Upon termination or expiration of this Agreement, the Superintendent shall be entitled to maintain this insurance by assuming the payments the then applicable premiums applicable to his policy. In addition, the District, at its cost, shall provide the Superintendent with disability insurance at one and a half times his annual base salary.

5.6. Any additional benefits not specified in this Agreement shall be approved by the Board.

6. **LEAVE.**

6.1. **Vacation Leave.** The Superintendent shall render services in accordance with the District's standard work year for confidential administrators and she shall be entitled to the same holidays as are provided for confidential administrators of the District. In addition, the Superintendent shall be entitled to twenty-five (25) annual vacation days with pay. The Superintendent is encouraged to take all vacation days during the year in which such days are earned. At Superintendent's option, the Superintendent may be reimbursed annually at her daily rate of pay for any unused days not to exceed fifteen (15) per year. The Superintendent shall not accrue more than twenty-five (25) vacation days annually without the written approval of the Board President. If the Superintendent's vacation balance reaches 25 days, she will stop earning vacation in each month until vacation days are taken. The Superintendent shall provide the Board President with reasonable advance notice of any planned use of vacation days before any vacation is taken. Upon termination or expiration of this Agreement, the Superintendent shall be entitled to receive payment for any accrued and unused vacation days equal to the number of accrued but unused vacation days multiplied by her then daily rate of pay, subject to the limitations on the accrual of vacation days set forth in this paragraph. The Superintendent's daily rate of pay is the Superintendent's then-current annual salary divided by 240.

6.2. **Sick Leave.** The Superintendent shall be entitled to accrue paid sick leave at the rate of 1.0 day per month up to twelve (12) days per year. If the Superintendent does not utilize the total amount of accrued sick leave authorized during any year, she may carry over the unused time to sick leave in the subsequent year.

6.3. **Other Leave.** The Superintendent shall be entitled to all other leave, including personal leave, provided to confidential administrators.

7. **TRAVEL EXPENSES.** The Superintendent shall receive \$750 per month to cover travel-related expenses, including parking, tolls, and mileage, within 100 miles of the District. For travel outside of 100 miles of the District, the Superintendent shall be reimbursed for all reasonable, actual and necessary expenses incurred in the course and scope of executing his professional responsibilities for the District, including reasonable expenses for travel outside the District. The District shall reimburse the Superintendent for automobile travel outside of 100 miles of the District at the mileage rate as provided to all confidential administrators in the District. Any such request for reimbursement shall comply fully with all District rules and requirements relating to expense reimbursements. In the Board's discretion, the District may offer the Superintendent security services which include a driver. In the event of such a determination, the Superintendent will receive those services in lieu of a monthly travel stipend. Any actual and approved

District travel expenses incurred by the Superintendent would be reimbursed in accordance with District policy.

8. **TECHNOLOGY SUPPORT.** The Board shall provide the Superintendent with appropriate technology that will assist the Superintendent in the performance of her duties and responsibilities. This shall include a cell phone (or equivalent stipend), Ipad, laptop and printer. The Board shall own this technology. Upon termination of this Agreement, the Superintendent shall return all District equipment.
9. **PROFESSIONAL ACTIVITIES.** The Superintendent may engage in outside professional activities, including writing, consulting, and lecturing, with or without honorarium, as long as such activities do not interfere with the performance of her duties as Superintendent. The Superintendent may not serve as a consultant without the prior approval of the Board Chair, which will not be unreasonably withheld.
10. **BUSINESS EXPENSES.** The Board shall reimburse the Superintendent for reasonable and necessary expenses incurred by the Superintendent in the course of District's business that are within the District's Board-approved budget. The Superintendent shall provide expense records normally required for reimbursement.
11. **PROFESSIONAL GROWTH AND DEVELOPMENT.** The Board encourages the Superintendent to maintain and improve her professional competence by all available means including subscription to and reading of professional journals, participation in professional organizations and meetings, and other continuing education. The District shall pay the Superintendent's membership dues and reasonable related expenses to belong to a reasonable number of relevant professional organizations, including the Association of California School Administrators ("ACSA") and the American Association of School Administrators (AASA) or alternatives as otherwise approved by the Board. Prior notice shall be given to the Board when the Superintendent attends a function outside of Alameda County or the San Francisco Bay Area.
12. **EVALUATION.**
  - 12.1. No later than October 1, 2017, the Board shall establish, in consultation with the Superintendent, the 2017-18 Superintendent's Work Plan and the performance goals for the 2017-18 school year and the Board and Superintendent shall agree on the evaluation form for the 2017-18 school year. The Work Plan and performance goals shall be reduced to writing. The Superintendent's 2017-18 evaluation shall be completed by the Board no later than June 30, 2018. After the initial term of the Agreement, no later than June 30<sup>th</sup> of each subsequent year, unless mutually agreed otherwise, the Board and the Superintendent shall jointly establish the Superintendent's Work Plan for the following school year, the performance goals and shall agree on the evaluation form to be used. The Board shall complete the Superintendent's evaluation no later than June 30<sup>th</sup> of each year. The Board shall provide the Superintendent a copy of the completed evaluation. The Superintendent shall have the right to respond to the Board's written evaluation orally or in writing

- 12.2. No later than January 31 of each year of this Agreement, the Board and the Superintendent shall meet to discuss and review the Superintendent's progress in meeting the agreed-upon goals.
- 12.3. No later than May 1 of each year of this Agreement, the Superintendent, prior to her evaluation, shall provide the Board a written self-appraisal of her accomplishments and progress toward meeting the agreed-upon goals. After the Board receives the Superintendent's self-appraisal, the Board and the Superintendent shall meet no later than June 1 of each year of this Agreement to discuss the Superintendent's self-appraisal. The Board's evaluation of the Superintendent shall occur as provided in Section 12.1 of this Agreement. Any publication of the Superintendent's progress towards the work plan goals shall be designated as a self-evaluation.

13. **TERMINATION.** This Agreement may be terminated by the following:
  - 13.1. **Superintendent's Option to Terminate.** Notwithstanding any other provisions of this Agreement, the Superintendent shall have the option to terminate this Agreement by providing the Board with a written notice of intent to terminate. This notice shall be provided no less than one hundred and twenty (120) days prior to said termination date. The Superintendent and the Board may mutually agree to a termination notice of less than one hundred twenty (120) days. In the event Superintendent opts to terminate, all reasonable efforts shall be made to have the cessation of services be at the conclusion of a fiscal year. In the event that the Superintendent opts to terminate, the District shall have no obligation to pay the severance as provided in paragraph 13.2 and reserves the right to notify the California Commission on Teacher Credentialing (CCTC) of the early termination.
  - 13.2. **District's Option to Terminate Without Cause.** Notwithstanding any other provision of this Agreement or law, the District, at its sole discretion, shall upon giving ninety (90) days written notice, have the option to terminate this Agreement without cause. If the District elects the option to terminate the Agreement pursuant to this Section, the District shall pay the Superintendent in one lump-sum payment within ninety (90) days of giving written notice of termination, an amount equal to her current salary of nine (9) months or the salary of the remainder of the Agreement if such remainder is less than nine months. In addition, the Superintendent shall be paid for all accrued but unused vacation days in accordance with Section 6.1 of this Agreement. The Superintendent shall also be provided with all of the other benefits under this Agreement with the exception of vacation and sick days, for a period of 9 months. In the event that the Superintendent obtains comparable benefits through another source, the Superintendent shall so notify the District and its obligation to continue those benefits shall cease. The calculation for purposes of the lump-sum payment shall be based upon the rate of base salary excluding stipends in effect on the date of the notice of termination. The Superintendent may elect to receive the termination payments paid on the same monthly installment basis as the Superintendent's salary is currently paid, rather than

receive a lump sum payment. This provision applies to any termination without cause of the Superintendent initiated by the Board, or any agent operating on behalf the District.

- 13.3. State Administrator. The parties expressly agree to promptly inform the other of any communications or events that may result in the appointment of an administrator to administer some or all of the District's functions or operations ("State Administrator"). In the event that within the initial two years of the term of this Agreement, the parties are on notice of an appointment of a State Administrator and acknowledging that such appointment was not caused by the Superintendent, the Termination Without Cause section (13.2) shall apply and the Superintendent shall be paid the severance terms set forth in that paragraph. The parties have reviewed the provisions of Education Code sections 41320 et. seq. and acknowledge that this Agreement cannot be implemented contrary to the law. Specifically, the parties acknowledge that, under some fiscal situations, the Education Code requires the termination of the Superintendent and sets the final compensation of the Superintendent. The parties intend for this Agreement to be construed in compliance with such sections. (See Education Code section 41326, subsections (c) and (j).)
- 13.4. Mutual Agreement. The Board and the Superintendent at any time during this contract may mutually agree to terminate this Agreement. In the event of mutual termination, the District shall have no obligation to pay the severance, provided in paragraph 13.2 unless it otherwise agrees in writing.
- 13.5. By the Board for cause.
  - 13.5.1. The Board may elect to terminate this Agreement for cause upon sixty (60) days written notice to the Superintendent. Cause shall constitute conduct enumerated in Section 44932 of the California Education Code and specifically including, but not limited to, the following: (a) a conviction for, indictment regarding (or procedural equivalent), or the entering of a guilty plea (or plea of nolo contendere) to, any crime with respect to which imprisonment is a possible punishment (whether or not actually imposed), which involves moral turpitude; (b) an act that is defined as moral turpitude under state or federal law and that is materially and demonstrably injurious to the District; (c) willful malfeasance or gross negligence in the performance of duties pursuant to this Agreement that are materially and demonstrably injurious to the District; (d) an act of fraud, embezzlement or theft; (e) material breach of any material term of this Agreement or repeated, willful failure or refusal to perform any material obligation or duty pursuant to this Agreement that has not been cured within 30 days after written notice by the Board; and (f) persistent, willful violation of the school laws of the state or reasonable regulations of the State Board of Education.
  - 13.5.2. Dismissal for cause shall be effective upon action taken by majority vote of the Board at a closed session of the Board. With the exception of any

salary and benefits accrued prior to Board action, all salary and benefits provided for in this Agreement shall cease upon said action by the Board. Salary and benefits earned or accrued prior to Board action shall be paid to the Superintendent within thirty (30) days of Board action.

13.5.3. Prior to any Board action, the Board shall provide the Superintendent notice in writing of possible termination for cause, including reasons for proposed termination for cause, at least 15 days prior to the Board meeting to discuss and take possible action to terminate the Superintendent for cause. The Superintendent shall have the opportunity to appear before the Board with her counsel and to present evidence at the meeting to discuss and take possible action to terminate the Superintendent for cause. Within five days of the Board's decision to terminate the Superintendent, the Board shall provide the Superintendent a written decision, including reasons, for terminating the Superintendent for cause.

14. **MEDICAL EVALUATION.** In light of the unique nature of the professional duties of Superintendent, Superintendent shall receive, at district expense, a complete medical examination prior to February 15 of each Contract Year. The examination shall be conducted by a licensed physician selected by Superintendent. The written statement which shall be provided to Board shall be limited to the physician's determination of the continued fitness of Superintendent to perform the duties required under the Contract, with or without reasonable accommodations. The statement shall otherwise be confidential. Nothing in this provision precludes Board from directing Superintendent to submit to a fitness for duty exam at any time, or as otherwise permitted by law.

15. **JOB SEARCH NOTICE.** If at any time during the term of this Agreement the Superintendent interviews for any other employment position, the Superintendent shall notify the Board in writing within three (3) business days of the interview. If the Superintendent fails to follow the notice procedures set forth above, such failure may, at the Board's sole discretion be grounds for termination for cause pursuant to 13.5 herein.

16. **NON-SOLICITATION OF EMPLOYEES.** Without the prior written consent of the District, upon termination of this Agreement, the Superintendent shall not directly recruit or hire the District's personnel away from the District. This does not prevent Superintendent from hiring any such person who contacts her on his or her own initiative without any direct solicitation by or encouragement from or on the behalf of the Superintendent.

17. **SELECTION OF EMPLOYEES.** The Superintendent will follow District policies, protocols and agreements in selecting the best qualified candidates for employment and promote practices that are free of conflicts of interest or the appearance of impropriety. In accordance with the District's hiring of relatives policy, the Superintendent will not select or recommend for appointment any of her relatives without the permission of the Board. In addition, the Superintendent will not select or recommend for appointment in senior leadership persons who are related to others in the District which could involve or be perceived to involve management, supervisory, evaluation, promotion responsibilities,

or other decisions impacting the employment of a relative without the permission of the Board. The Superintendent also shall not recruit individuals who are related to other candidates for District jobs without the permission of the Board.

18. **APPLICABLE LAWS.** This Agreement is subject to all applicable laws and regulations of the State of California, to the rules and regulations of the State Board of Education, and to the rules, regulations, and policies of the District, except as otherwise stated herein. Said applicable laws, rules, regulations, and policies are hereby made part of the terms and conditions of this Agreement as though fully set forth herein.
19. **MEDIATION.** Before filing a lawsuit in respect of a dispute under this Agreement, a party claiming to be aggrieved ("aggrieved party") must first notify the other party ("other party") of its claim and initiate mediation under the mediation rules of the Judicial Arbitration and Mediation Service ("JAMS") unless the parties within thirty (30) days of the aggrieved party's notice agree upon a neutral mediator and a timetable for the mediation. If the parties cannot so agree, the mediation will be initiated by the aggrieved party and conducted by JAMS and each party will use its best efforts to mediate the dispute as expeditiously as possible. Unless (a) such mediation has been unsuccessful in resolving the dispute or (b) the other party has unreasonably delayed the mediation, the aggrieved party cannot file a lawsuit in respect of the dispute. The costs of mediation shall be borne equally by both parties.
20. **ENTIRE AGREEMENT.** It is expressly understood by both parties that any previous letter, email, or any other communication, whether oral or in writing, between the parties is null and void and of no legal force or effect. This Agreement constitutes the full and complete understanding between the parties hereto, and its terms can be changed or modified only in writing, signed by all parties or their successors in interest to this Agreement.
21. **SAVINGS CLAUSE.** If during the term of this Agreement it is found that a specific clause of the Agreement is illegal under federal or state law, the remainder of the Agreement not affected by such a ruling shall remain in full force and effect.
22. **NOTICES.** Any notice required or permitted under this Agreement will be in writing and deemed to have been duly given on the date of service if served personally, or on the third day after mailing if mailed, first class postage prepaid, return receipt requested, and addressed to the addressee at the address stated opposite his or her name below, or at the most recent address specified by written notice given to the sender by the addressee under this provision.
23. **LIMITATION OF DAMAGES FOR BREACH.** The parties agree that in the event of breach of this Agreement, the damages for such breach shall not exceed the sums due as compensation under this Agreement in accordance with the limitations set forth in California Government Code Section 53260 *et seq.*
24. **INDEMNIFICATION OF SUPERINTENDENT.** In accordance with the provisions of California Government Code Section 995, the Board shall defend, hold harmless, and indemnify the Superintendent from any and all demands, claims, suits, actions, and legal

proceedings brought against the Superintendent in her individual capacity, or in her official capacity as agent and employee of the Board, provided the incident giving rise to any such demand, claim, suit, action or legal proceeding arose while the Superintendent was acting within the scope and course of her employment; and provided further, that such liability coverage is within the authority of the Board to provide under California law. The Board shall provide indemnity from liability as set forth above for all claims made and occurrences throughout the term of this Contract and any extensions thereof and after her employment with the District ends. In no case will individual Board members be considered personally liable for indemnifying the Superintendent against such demands, claims, suits, actions and legal proceedings. If, in the opinion of legal counsel to the District or counsel to the insurance carrier to the District, a conflict exists with regards to providing a defense to Superintendent under the District's insurance policy and the insurance carrier and/or the District does not provide and assign separate counsel to represent the Superintendent, then the Superintendent may engage separate legal counsel for which the District shall indemnify the Superintendent for costs and legal fees to such items for which the District has agreed to provide indemnification as stated above. Those costs and legal fees shall not exceed reasonable rates and amounts, provided that such legal costs and fees are not recoverable by the Superintendent under any other insurance or professional association membership. This Section 20 shall survive termination of this Agreement.

25. **WAIVERS.** No delay or omission on the part of either party in exercising any rights under this Agreement constitutes a waiver of the right or of any other right. A waiver or estoppel found in one instance does not constitute a waiver or estoppel in another instance, whether the circumstances are the same or different.

IN WITNESS WHEREOF, the parties hereto, or their duly authorized representatives, affix their signatures to this Agreement.

OAKLAND UNIFIED SCHOOL DISTRICT

By

JAMES HARRIS, President

Approved as to Form

MARION MCWILLIAMS, General Counsel

KYLA JOHNSON-TRAMMELL,  
President



File Number: 17-1317  
Production Date: 6/14/17  
Contract Number: 17-0764  
Enactment Date: 6/14/17  
By:



GOVERNMENT CODE  
SECTION 53260-53264

53260. (a) All contracts of employment between an employee and a local agency employer shall include a provision which provides that regardless of the term of the contract, if the contract is terminated, the maximum cash settlement that an employee may receive shall be an amount equal to the monthly salary of the employee multiplied by the number of months left on the unexpired term of the contract. However, if the unexpired term of the contract is greater than 18 months, the maximum cash settlement shall be an amount equal to the monthly salary of the employee multiplied by 18.

(1) Notwithstanding subdivision (a), if a local agency employer, including an administrator appointed by the Superintendent, terminates its contract of employment with its district Superintendent of schools that local agency employer may not provide a cash or noncash settlement to its Superintendent in an amount greater than the Superintendent's monthly salary multiplied by zero to six if the local agency employer believes, and subsequently confirms, pursuant to an independent audit, that the Superintendent has engaged in fraud, misappropriation of funds, or other illegal fiscal practices. The amount of the cash settlement described in this paragraph shall be determined by an administrative law judge after a hearing.

(2) This subdivision applies only to a contract for employment negotiated on or after the Effective Date of the act that added this subdivision.

The cash settlement formula described in subdivisions (a) and (b) are maximum ceiling on the amounts that may be paid by a local agency employer to an employee and is not a target or example of the amount of the cash settlement to be paid by a local agency employer to an employee in all contract termination cases.

53261. The cash settlement specified in Section 53260 shall not include any other noncash items except health benefits, which may be continued for the same duration of time as covered in the settlement, pursuant to the same time limitations as provided in Section 53260, or until the employee finds other employment, whichever occurs first.

53262. (a) All contracts of employment with a Superintendent, deputy Superintendent, assistant Superintendent, associate Superintendent, community college president, community college vice president, community college deputy vice president, general manager, city manager, county administrator, or other similar chief administrative officer or chief executive officer of a local agency shall be ratified in an open session of the governing body which shall be reflected in the governing body's minutes.

(b) Copies of any contracts of employment, as well as copies of the settlement agreements, shall be available to the public upon request.

53263. For purposes of this article, "local agency" means any general law county, general law city, and any district, school district, community college district, municipal or public corporation, political subdivision, or public agency of the state, or any instrumentality of any one or more of these agencies.

53264. This article shall apply prospectively and shall affect any contract originally approved by the governing body, or any existing contract that is extended by the governing body, after the effective date of this article.